

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 18A-0636R

IN THE MATTER OF THE APPLICATION OF THE CITY OF LOUISVILLE FOR
AUTHORITY TO INSTALL APPROACH RAILROAD GATES WITH FLASHING LIGHTS,
BELLS, CONSTANT WARNING TIME CIRCUITRY, NEW SIGNAL CABIN, AND
UPGRADED MEDIAN POST-MOUNTED FLASHERS AT TRACKS OWNED BY
BNSF RAILWAY COMPANY CROSSING DILLON ROAD, USDOT NO. 244798M, IN
BOULDER COUNTY, STATE OF COLORADO.

**INTERIM DECISION OF
ADMINISTRATIVE LAW JUDGE
G. HARRIS ADAMS
ORDERING FILING AND SCHEDULING
PREHEARING CONFERENCE**

Mailed Date: June 7, 2019

I. STATEMENT

1. On September 17, 2018, the City of Louisville (Louisville) filed an application (Application) seeking preliminary approval of design plans to upgrade the active warning equipment to flashing lights with entrance gates, bells, constant warning time circuitry, and railroad signal cabin; relocate advance warning signs; install pavement markings; extend the median on the west side; interconnection with and preemption of the traffic signal at Pierce Avenue and Dillon Road; and the addition of “No Train Horn” plaques at the existing crossing of Dillon Road with the tracks of the BNSF Railway Company (BNSF) at railroad milepost 18.35 on the Front Range Subdivision, National Inventory No. 244798M, in Louisville, County of Boulder, State of Colorado.

2. Notice of the Application was provided by the Commission to all interested parties, including adjacent property owners pursuant to § 40-6-108(2), C.R.S., on September 20, 2018.

3. On September 24, 2018, Louisville amended the Application to change the Application to seeking preliminary approval of plans and providing the information required in applications for preliminary plans.

4. On October 22, 2018, BNSF filed a Passive Notice of Intervention. BNSF stated "By this intervention, BNSF is not opposing or contesting the granting of the application, but rather indicates to the parties and all interested persons, firms or corporations, that BNSF will participate in any hearing which results from an intervention contesting or objecting to any portion of the application."¹

5. Louisville and BNSF are the only parties to this proceeding.

6. The Commission may take evidence in uncontested or unopposed proceedings by affidavit or otherwise, without the necessity of a formal oral hearing. § 40-6-109(5), C.R.S.

7. Rule 1403(a) of the Commission's Rules of Practice and Procedure, 4 *Code of Colorado Regulations* (CCR) 723-1 provides:

The Commission may determine any application or petition without a hearing and without further notice, upon either its own motion or upon the motion of a party, if the application or petition is uncontested or unopposed, if a hearing is not requested or required by law, and if the application or petition is accompanied by a sworn statement verifying sufficient facts and supported by attachments and/or exhibits that adequately support the filing. A person having knowledge of the stated facts shall, under oath, sign a sworn statement attesting to the facts stated in the application or petition and any attachments and/or exhibits.

¹ BNSF Intervention at p. 1.

8. By Decision No. C18-0974-I, issued November 5, 2018, the Commission found the Application to be unopposed. Based upon the record, the Commission found that “good cause exists and that the requirements of public safety and necessity are met by approving Louisville’s preliminary plans.” Decision No. C18-0974-I at 4. The preliminary plans filed by Louisville were approved. Final design plans were expected to be filed by December 1, 2018.

9. Interconnection to traffic signals or queue cutter signals and preemption by active warning signals were addressed at pages 14 through 17. Traffic signal timings, calculations for the following distances and timings, and a letter of concurrence from Staff of the Public Utilities Commission were provided. The preemption calculation form and timeline diagram supporting the requested approval were included in Exhibit E to the Application.

10. By Decision No. C18-1171-I, issued December 26, 2018, BNSF was ordered to provide the cost estimate and schematic diagram to Louisville no later than February 15, 2019. Alternatively, if it failed to do so, it was ordered to file an affidavit explaining why it failed to do so. BNSF has done neither.

11. Decision No. C18-0974-I, has not been modified.

12. In anticipation of any hearing, the undersigned Administrative Law Judge is setting a prehearing conference in accordance with Rule 1409(a) of the Rules of Practice and Procedure, 4 CCR 723-1.

II. ORDER

A. It Is Ordered That:

1. On or before June 21, 2019, the BNSF Railway Company must file the cost estimate and schematic diagram consistent with the preliminary plans approved by the Commission in Decision No. C18-0974-I.

2. A prehearing conference in this proceeding is scheduled as follows:

DATE: June 24, 2019

TIME: 9:00 a.m.

PLACE: Commission Hearing Room
1560 Broadway, 2nd Floor
Denver, Colorado

3. This Decision is effective immediately.

(S E A L)



THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

G. HARRIS ADAMS

Administrative Law Judge

ATTEST: A TRUE COPY

A handwritten signature in cursive script that reads "Doug Dean".

Doug Dean,
Director